

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

SHOSHANA HEBSHI,

Plaintiff,

v.

UNITED STATES OF AMERICA, FRONTIER AIRLINES, INC., JOHN BRAND, in his individual capacity, UNKNOWN FBI AGENT 1, in his individual capacity, UNKNOWN FBI AGENT 2, in his individual capacity, JOHN ETLING, in his individual capacity, MARK DEBEAU, in his individual capacity, JEREMY BOHN, in his individual capacity, CAPTAIN PATRICK DRISCOLL, in his individual capacity, OFFICER GRANT, in his individual capacity, LT M. WASIUKANIS, in his individual capacity, TOYA PARKER, in her individual capacity, DT. CARMONA, in his or her individual capacity, OFFICER JOHNSON, in his or her individual capacity, CORPORAL BRADLEY, in his or her individual capacity, UNKNOWN CBP OFFICER, in his individual capacity, THOMAS PIPIS, in his individual capacity, DAVID LAKOTOS, in his individual capacity, NATHANIEL DEVINS, in his individual capacity, UNKNOWN TSA AGENT 1, in his individual capacity, UNKNOWN TSA AGENT 2, in her individual capacity, ROBERT BALL, in his individual capacity, UNKNOWN ICE OFFICER, in his individual capacity, and PAUL BRUMLEY, in his individual capacity,

Defendants.

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MARK DEBEAU, OFFICER GRANT, TOYA PARKER, DT. CARMONA, and OFFICER JOHNSON,

Cross Plaintiffs,

No. 4:13-cv-10253

Hon. Terrence G. Berg  
Magistrate Laurie Michelson

v.

FRONTIER AIRLINES, INC.

Cross Defendant.

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JEREMY BOHN, CAPTAIN PATRICK  
DRISCOLL, LT. M. WASIUKANIS, AND  
CORPORAL BRADLEY,

Cross Plaintiffs,

v.

FRONTIER AIRLINES, INC.

Cross Defendant.

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**DEFENDANT JEREMY BOHN, CAPTAIN PATRICK DRISCOLL,**  
**LT. M. WASIUKANIS, AND CORPORAL BRADLEY'S**  
**CROSS COMPLAINT**  
**AGAINST FRONTIER AIRLINES, INC.**

NOW COMES Defendants JEREMY BOHN, CAPTAIN PATRICK DRISCOLL, LT. M. WASIUKANIS, and CORPORAL BRADLEY (hereinafter “WCAA/Bohn, Driscoll, Wasiukanis and Bradley”), by and through their counsel, T. Joseph Seward of Cummings, McClorey, Davis & Acho, and for their Cross-Complaint against Frontier Airlines, Inc. (hereinafter “Frontier”), states as follows:

1. Plaintiff Shoshana Hebshi filed a Complaint seeking damages from Defendants and Cross-Plaintiffs Jeremy Bohn, Captain Patrick Driscoll, Lt. M. Wasiukanis, and Corporal Bradley in the captioned case.
2. Plaintiff is alleged to be a resident of Sylvania, Ohio.
3. The Wayne County Airport Authority (hereinafter “WCAA”) is a political subdivision existing pursuant to the Michigan Aeronautics Code and under the Constitution and laws of the State of Michigan, and operates within Wayne County, Michigan. The named Defendant Cross Plaintiffs are each employees of the WCAA.
4. On information and belief, Defendant and Cross Defendant Frontier Airlines, Inc. (“Frontier”) is a for profit Corporation headquartered in Colorado, with a principle place of business in Wayne County Michigan, Michigan. Further, at the date and time in question, Frontier operated its air carrier services at Detroit Metropolitan Wayne County Airport (hereinafter “Metro Airport”), located in Wayne County, Michigan.
5. The United States of America and various employees of the United States are also named defendants.

6. The acts and allegations contained in Plaintiff's Complaint are alleged to have arisen at Metro Airport located in the County of Wayne, State of Michigan.

**COUNT I**

**BREACH OF CONTRACT**  
**FOR FAILURE TO INDEMNIFY AND HOLD HARMLESS**

7. WCAA/Bohn, Driscoll, Wasiukanis, and Bradley reallege all previous allegations as if set forth herein.

8. Plaintiff's Complaint alleges that on September 11, 2011, Shoshana Hebshi, a passenger aboard Frontier flight 623, had her civil rights violated and/or was discriminated against by the various named defendants, for their activities surrounding and involving Ms. Hebshi's detainment at Metro Airport following suspicious activity on flight 623.

9. On January 1, 2009 Frontier entered into an four Non-Signatory Airline Operating Agreement with the WCAA to lease space and operate air carrier services at Metro Airport (hereinafter "Frontier/WCAA contract").

10. Pursuant to the Frontier/WCAA contract, Frontier has agreed to indemnify, defend, and hold the WCAA including its employees harmless from and against all liability to persons related to Frontier's acts or omissions in its use of the Airport, however it shall not be liable for any injury caused by the WCAA's sole negligence.

11. This incident arose out of Frontier's operations at Metro Airport.

12. Defendant Cross Plaintiffs WCAA/Bohn, Driscoll, Wasiukanis, and Bradley are each employees of the WCAA.

13. Plaintiff has brought causes of action against not only WCAA employees, but also against Frontier, the United States, and numerous federal employees.

14. WCAA/Bohn, Driscoll, Wasiukanis, and Bradley tendered this matter to Frontier seeking indemnification pursuant to the Frontier/WCAA contract, and Frontier has failed to respond to the tender demand.

15. Failure to accept the tender by WCAA/Bohn, Driscoll, Wasiukanis, and Bradley violates the indemnification provision of the Frontier/WCAA contract, and as such, Frontier is liable to WCAA/Bohn, Driscoll, Wasiukanis, and Bradley for their attorneys fees and costs in defending this matter, and for other damages including but not limited to any settlement entered into by the WCAA/Bohn, Driscoll, Wasiukanis, and Bradley or judgment rendered against them.

## **COUNT II**

### **BREACH OF CONTRACT** **FOR FAILURE TO OBTAIN SPECIFIED INSURANCE**

16. WCAA/Bohn, Driscoll, Wasiukanis, and Bradley reallege all previous allegations as if set forth herein.

17. Pursuant to the Frontier/WCAA contract, Frontier was to obtain, in the name of the WCAA as an additional insured, a Comprehensive Airline Liability Insurance policy, in an amount of not less than Five Hundred Million Dollars (\$500,000,000.00) per occurrence.

18. The WCAA acts through its employees and said policy applies to WCAA/Bohn, Driscoll, Wasiukanis, and Bradley as employees of the WCAA.

19. A claim on Frontier's insurance policy was instituted by the WCAA/Bohn, Driscoll, Wasiukanis, and Bradley, and Frontier's insurer has not responded.

20. To the extent that Frontier failed to obtain the insurance specified within the Frontier/WCAA contract, Frontier breached its contract with the Airport Authority and is

liable for all natural and foreseeable consequential damages sustained by WCAA/Bohn, Driscoll, Wasiukanis, and Bradley as a result of the breach.

WHEREFORE, WCAA/Bohn, Driscoll, Wasiukanis, and Bradley request that this Honorable Court enter a judgment enforcing the indemnification and insurance provisions of the Frontier/WCAA contract, and order that Frontier indemnify, defend, hold harmless, and insure WCAA/Bohn, Driscoll, Wasiukanis, and Bradley with regard to this matter and further award WCAA/Bohn, Driscoll, Wasiukanis, and Bradley all costs and legal fees incurred by them as a result of Frontier's wrongful refusal to accept the their tender of defense.

Dated: April 15, 2013

/s/ T. Joseph Seward

T. JOSEPH SEWARD (P35095)

Attorney for WCAA/Bohn, Driscoll, Wasiukanis,  
and Bradley

**Certificate of Service**

I hereby certify that on **April 15, 2013**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

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